

Law on Chemical Weapons

GENERAL PROVISIONS

Article 1

Content and purpose of the law

This law sets out the obligations, prohibitions and restrictions relating to chemical weapons in accordance with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Official Gazette of the Republic of Slovenia, No. 34/97-International Treaties, No. 9/97. Hereinafter: the Convention).

Article 2

Prohibitions

The development, production, trade, stockpiling, retention and use of chemical weapons is prohibited.

Article 3

Exceptions

The prohibition under the preceding article shall not apply to toxic chemicals and their precursors which are used for:

- industrial, agricultural, research, medical, pharmaceutical and other peaceful purposes;
- protection against toxic chemicals and chemical weapons;
- military purposes which do not imply a method of warfare.

The prohibition under the preceding article shall also not relate to toxic chemicals and their precursors which are used for domestic riot control purposes in accordance with special regulations.

Article 4

Definition of terms

Terms used in this law shall have the following meanings:

1) 'The Convention' means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Official Gazette of the Republic of Slovenia, No. 34/97-International Treaties, No. 9/97, signed at Paris on 13 January;

2) 'Chemical weapons' means:

- a) toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;
- b) munitions and devices specifically designed to cause death or other harm through the toxic properties of chemicals specified in subparagraph a) which would be released as a result of the employment of such munitions and devices;

c) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph b);

3) 'Liable person' means a private businessperson, legal person or state body and a natural and legal person with the function of owner or user of land, facilities, equipment and toxic chemicals which are shall be subject to verification according to the provisions of the Convention, in other words the holder of the licence under Article 6 of this law;

4) 'Trade' means the importation, exportation, sale or transfer to a third party, storage, packaging, equipping and labelling;

5) 'Import' means every entry of a chemical into the customs area of the Republic of Slovenia irrespective of the type of use or application permitted for this chemical in accordance with customs regulations;

6) 'Export' means every removal of a chemical from the customs area of the Republic of Slovenia;

7) 'Transit' means every transfer of a toxic chemical across the customs area of the Republic of Slovenia under customs supervision;

8) 'The Organisation' means the Organisation for the Prohibition of Chemical Weapons established by the Convention;

9) 'The Annex' means the Annex on Chemicals from the Convention;

10) 'Toxic chemicals' are the chemicals and their precursors specified in the Annex under the preceding point.

OBLIGATIONS OF LIABLE PERSONS

Article 5

Production licences, licences to operate facilities

The production of toxic chemicals, the operation of chemical production facilities and trade in toxic chemicals for the purposes under Article 3 of this law may be carried out on the basis of a licence issued by the minister responsible for health in agreement with the minister responsible for economic affairs and the minister responsible for environment.

A licence shall also be necessary for every change or adaptation of a facility for the production of or trade in toxic chemicals.

More detailed conditions for the production of and trade in toxic chemicals shall be prescribed by the minister responsible for health in agreement with the minister responsible for economic affairs and the minister responsible for environment.

A record of the licences under this article shall be kept by the Chemicals Office (hereinafter: the Office).

Article 6

Licences for trade in toxic chemicals

Licences for the importation, transit, exportation, storage and use of toxic chemicals for the purposes under Article 3 of this law shall be issued by the Office.

The Office shall issue its ruling within six months of receiving a full application.

The minister responsible for health shall prescribe in more detail the method of acquiring the licences under the first paragraph of this article.

A record of the licences under the first paragraph of this article shall be kept by the Office.

Article 7

Restriction of trade

The minister responsible for health may prohibit or restrict trade in toxic chemicals with States not Party to the Convention.

Article 8

Obligation of protection

Liable parties who carry out the activities under Article 5 of this law shall be obliged to see to the necessary measures by which the improper use of toxic chemicals may be prevented.

Article 9

Reporting

The liable party must submit to the Office within the specified deadline data on the process of producing or processing chemicals, data on facilities and technical equipment and data on imports, exports, storage and use, including the specification of individual toxic chemicals and

data on quantities. The liable party must also submit other documentation at the request of the Office.

The minister responsible for health shall prescribe the deadlines, content and method of communicating the data under the preceding paragraph.

RESPONSIBILITIES AND POWERS

Article 10 Office of Chemicals

The Office is responsible for cooperation with the Organisation on the implementation of the functions and powers deriving from the Convention. In doing so:

- it collects at the national level the data which it is obliged under the Convention to communicate to the Organisation;
- it cooperates on the preparation of facility agreements which in accordance with the Convention the Government of the Republic of Slovenia concludes with the Organisation;
- it cooperates in the asserting of demands for the covering of the costs of international inspection;
- it cooperates with the international inspectorate;
- in accordance with Article 10 of the Convention it cooperates with the Organisation in the case of threat of use or use of chemical weapons.

In implementing the functions under the preceding paragraph the Office cooperates with the ministry responsible for economic affairs, the ministry responsible for internal affairs, the ministry responsible for foreign affairs and the ministry responsible for defence.

Article 11 Customs bodies and internal affairs bodies

Supervision of the import, export and transit of toxic chemicals shall be carried out by customs bodies and internal affairs bodies.

A customs body may only permit entry into the customs area and approve a requested customs-permitted use or application of toxic chemicals if the liable person, in addition to customs documentation, also submits the licence under Article 6 of this law and an import approval from the Chemicals Inspector (under Article 14 of this law).

Customs bodies and internal affairs bodies who establish a violation of this law or the Convention in the course of their work shall immediately inform the Office.

In the event of an attempt to import chemical weapons or toxic chemicals without the licence under Article 6 of this law, the chemical weapons or toxic chemicals shall be confiscated. Confiscated chemical weapons or toxic chemicals shall be stored in facilities specified by the minister responsible for health by agreement with the minister responsible for economic affairs and the minister responsible for environment. Storage costs and other costs for fulfilling the requirements of the Convention in relation to confiscated chemical weapons or toxic chemical shall be borne by the holder or owner.

COLLECTION, USE AND PROTECTION OF DATA

Article 12

Collection, use and protection of data

An information database shall be kept in accordance with the programme of information support, pursuant to the law which governs the area of chemicals.

Personal data on liable persons kept by Office and obtained by it directly from a liable person or central national register include: tax number and/or personal identification number of the liable person and the name, head office and/or permanent residence of a liable person.

The bodies responsible for the implementation of this law shall notify each other if a well-grounded suspicion is established regarding unlicensed production of and trade in chemical weapons or toxic chemicals.

The bodies responsible for the implementation of this law may only use data communicated to them in accordance with this law and the Convention for the purpose for which they acquired it and are obliged to protect it from third parties. All receivers of data must also respect the provisions on the protection of the secrecy of data in accordance with the Convention and the law which governs the protection of personal information.

INSPECTIONS

Article 13

Inspection and supervision

Inspection and supervision of the implementation of the Convention, this law and regulations issued on the basis of this law shall be carried out by the following in accordance with their authorisations:

1. Health inspectors - trained for chemicals (hereinafter: chemicals inspectors);
2. International inspectors of the Organisation.

The costs of inspections carried out by the Organisation shall be covered from the national budget.

The Office shall inform the Government without delay of every planned international inspection.

Article 14

Powers of chemicals inspectors

In addition to general powers, chemicals inspector shall under this law have the following further powers:

1. giving a written order that irregularities and deficiencies in relation to production and trade be redressed within a specified period;
2. giving a written prohibition of production, trade or use of toxic chemical;
3. by means of a written order halting production of or trade in a toxic chemical in a facility if the appropriate licence has not been obtained for that facility;

4. on the basis of the licence under Article 6 of this law approving the import and export of toxic chemicals before the lodging of a customs declaration for any type of customs procedure except for transit and storage of toxic chemicals.

The chemicals inspector shall notify the Office of the measures under the preceding paragraph.

An appeal against a written order of a chemicals inspector may be lodged with the ministry responsible for health within fifteen days of the written order being served.

An appeal shall not delay the execution of the written order.

Article 15

Obligation of liable persons to cooperate in international inspections

Liable persons shall be obliged to allow inspection and cooperate with the international inspectors of the Organisation and assist the escort group in the carrying out of the inspection.

The minister responsible for health shall define in more detail the method of cooperation in the carrying out of the inspection.

Article 16

Escort group

The inspections under Articles 6 and 9 of the Convention and the investigation under Article 10 of the Convention shall be carried out in the presence of an escort group.

The escort group shall be appointed by the minister responsible for health on the proposal of the minister responsible for internal affairs, the minister responsible for economic affairs, the minister responsible for defence, the minister responsible for environment and the minister responsible for agriculture. The leader of the group shall be a representative of the Office.

The leader of the escort group shall give verbal orders necessary for the carrying out of the inspection and investigation and other orders necessary for asserting powers and enforcing the obligation to cooperate. An appeal against verbal orders of the leader of the escort group shall not delay their execution.

The course of international inspection control and the functions of the escort group shall be specified in more detail by the minister.

Article 17

Border points of entry

Border points of entry for international inspections shall be determined by the minister responsible for internal affairs by agreement with the minister responsible for foreign affairs.

PENAL PROVISIONS

Article 18

A fine of at least SIT 1,000,000 shall be incurred by a legal person who:

(1)

1. does not obtain the appropriate licence before beginning production of toxic chemicals (first paragraph of Article 5);
2. does not obtain the appropriate licence for operating a facility for the production of or trade in toxic chemicals before commencing operation of same (first paragraph of Article 5);
3. does not obtain the appropriate licence for changing or adapting a facility for the production of or trade in toxic chemicals before commencing operation of same (second paragraph of Article 5);
4. carries out trade in toxic chemicals without an appropriate licence (first paragraph of Article 6);
5. carries out trade with States which are States not Party to the Convention (Article 7),
6. fails to take the necessary protection measures (Article 8);
7. fails to report requested data (Article 9);
8. imports, exports or conveys toxic chemicals across the territory of the Republic of Slovenia without the approval under Point 4 of the first paragraph of Article 14 of this law;
9. does not permit inspection (Article 15).

(2)

A fine of at least SIT 500,000 shall be incurred by an individual committing an offence in relation to the independent carrying out of an activity who:

1. does not obtain the appropriate licence before beginning production of toxic chemicals (first paragraph of Article 5);
2. does not obtain the appropriate licence for operating a facility for the production of or trade in toxic chemicals before commencing operation of same (first paragraph of Article 5);
3. does not obtain the appropriate licence for changing or adapting a facility for the production of or trade in toxic chemicals before commencing operation of same (second paragraph of Article 5);
4. carries out trade in toxic chemicals without an appropriate licence (first paragraph of Article 6);
5. carries out trade with States which are States not Party to the Convention (Article 7),
6. fails to take the necessary protection measures (Article 8);
7. fails to report requested data (Article 9);
8. imports, exports or conveys toxic chemicals across the territory of the Republic of Slovenia without the approval under Point 4 of the first paragraph of Article 14 of this law;
9. does not permit inspection (Article 15).

(3) A fine of SIT 100,000 shall be incurred by the responsible officer of a legal person who commits an offence under this paragraph.

Article 19

A fine of at least SIT 700,000 shall be incurred by a legal person who:

(1)

1. fails to report requested data within the deadline or fails to submit requested documentation for which a special request is made (Article 9);
2. does not help the inspection group or the escort group in carrying out an inspection (Article 15);
3. fails to respect the orders of the leader of the escort group (Article 16);

(2)

A fine of at least SIT 350,000 shall be incurred by a legal person committing an offence in relation to the independent carrying out of an activity who:

1. fails to report requested data within the deadline or fails to submit requested documentation for which a special request is made (Article 9);
2. does not assist the inspection group or the escort group in carrying out an inspection (Article 15);
3. fails to respect the orders of the leader of the escort group (Article 16);

(3) A fine of at least SIT 70,000 shall be incurred by the responsible officer of the legal person who commits the offence under this paragraph.

TRANSITIONAL AND FINAL PROVISIONS

Article 20

Carrying out administrative functions

Until the Office is founded the functions under this law shall be performed by the ministry responsible for health.

Article 21

Carrying out inspection functions

Until chemicals inspectors are appointed the functions under this law shall be performed by health inspectors.

Article 22

Deadline for the issuing of executive regulations

Executive regulations on the basis of this law shall be issued within six months of this law entering into force.

Article 23

Commencement of validity

This law shall enter into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia.

Explanation of articles

The first article of the draft law sets out the content and purpose of this law.

The second article of the draft law, in accordance with the provisions of the Convention, prohibits the development, production, trade, stockpiling, retention and use of chemical weapons

The third article defines exceptional cases where toxic chemicals may under certain conditions be produced or used. Toxic chemicals may be produced or used for purposes which are not prohibited by the Convention. These are:

- industrial, agricultural, research, medical, pharmaceutical and other peaceful purposes;
- protection against toxic chemicals and chemical weapons;
- military purposes which do not imply a method of warfare.
- use of toxic chemicals and their precursors for domestic riot control purposes in accordance with special regulations.

For these purposes the prohibitions under Article 2 shall not apply.

The fourth article defines the terms which are used in this law.

Since the prohibitions under the second article do not apply absolutely for all purposes, certain production of and trade in chemicals is possible. Therefore in the fifth article, in order to prevent abuse of these chemicals for non-peaceful purposes, the minister responsible for health is given the authority to issue, by agreement with the minister responsible for the economic affairs and the minister responsible for environment, licences for:

- production of toxic chemicals, the operation of facilities for the production of toxic chemicals, and trade in toxic chemicals, and also in cases where a facility is changed or adapted for activities relating to the production of or trade in toxic chemicals.

In the sixth article, in order to effect the supervision of trade, it is set out that for the import, transit, export, storage and use of toxic chemicals for the purposes under the third article, it is necessary to obtain a licence from the Office. The minister responsible for health shall prescribe the method of obtaining licences for the import, export, transit, use and storage of toxic chemicals. A record of licences shall be kept by the Office.

In the seventh article, in order to prevent illegal trade in toxic chemicals and their abuse, the minister of health is given the authority to prohibit or restrict the trade in toxic chemicals with States which are States not Party to the Convention.

The eighth article states that liable persons who perform the activities under the fifth article must ensure the necessary measures by which the use of toxic chemicals for purposes prohibited by the Convention is prevented.

The ninth article of the draft law states that producers, owners of toxic chemicals and production facilities and persons trading in chemicals covered by the Convention must provide information to the Office within the specified deadline. They are obliged to submit data on the process of producing or processing of toxic chemicals, data on facilities and technical equipment and data on import, export storage and use, including a specification of individual toxic chemicals and data on quantities. At the request of the Office the liable party is also obliged to submit other appropriate documentation. The method of obtaining licences, deadlines and the method of communicating data are defined in more detail in the executive regulation of the minister responsible for health.

The tenth article states that the National Authority for the implementation of the Convention and for the external representation of the State and for cooperation with the Organisation, in accordance with Paragraph 4 of Article 7 of the Convention is the Chemicals Office, a body within the structure of the ministry responsible for health. Such a provision accords with the law on the ratification of the Convention. Because the draft law on chemicals already envisages a Chemicals Office within the ministry which in accordance with the law on chemicals will oversee chemicals not specified by the Convention, it is specified that the same body will also see to the implementing of this law. This means a fundamental rationalisation because the implementation of work relating to chemicals is in this way complemented. The Office shall annually provide the Organisation with information on the owners of chemicals covered by the Convention and on the production facilities for such chemicals in the form of declarations. For facilities in which toxic chemicals are produced or could be produced it shall be necessary to conclude suitable agreements with the Organisation through which a detailed procedure of inspection supervision is determined in individual facilities (Convention, Annex on Implementation and Verification, Part III (Chapter A)). The Office shall take part in the preparation of these agreements. The Office shall also cooperate on asserting claims for the covering of the costs of the international inspections under the thirteenth article of the draft of this law, which are temporarily covered from the national budget. These costs shall in this way be returned in part or in their entirety to the national budget. In carrying out these and other functions deriving from the Convention, the Office shall cooperate with the ministry responsible for economic affairs, the ministry responsible for internal affairs, the ministry responsible for foreign affairs and the ministry responsible for defence.

The eleventh article states that bodies of the customs service shall also cooperate in the supervision of the import, export and transit of chemicals in accordance with their competences. A customs body may only permit chemicals to be brought into the customs area and approve a requested customs-permitted use or application of toxic chemicals if the liable person submits, in addition to customs documentation, the licence under the sixth article of the draft of this law and the import approval from a chemicals inspector under the fourteenth article of this draft law. Approval by an inspector is proof that bringing chemicals into the customs area is in accordance with the provisions of this law. If the owner submits chemicals to customs procedure without documents or with improper documents this shall be deemed as a violation which is governed by the provisions of this law and subject to sanction. In the case of an attempt to bring chemical weapons or toxic chemicals into the State without the licence under the sixth article of the draft of this law, the weapons or chemicals are subject to compulsory confiscation. Confiscated chemical weapons shall be stored in facilities specified by the minister responsible for health in agreement with the minister responsible for economic affairs and the minister responsible for environment. Costs relating to the fulfilment of the demands of the Convention relating to confiscated chemicals shall be borne by the holder or owner.

Because of the nature of the subject matter dealt with by the Convention and this law the twelfth article determines the use, provision and protection of data. This article also determines that the information data base on toxic chemicals which are the subject of this Convention shall be kept in accordance with the programme of information support from the previously mentioned law on chemicals.

This is also a matter of rationalisation and of collecting data in one place, or within the framework of an already planned information system which only needs to be suitably adapted. This article binds state bodies to mutually notify each other whenever there exists a suspicion of non-permitted production of or trade in chemical weapons or toxic chemicals, so that in this way illegal production of or trade in toxic chemicals for non-peaceful purposes may be prevented.

The thirteenth article of the draft law states that inspection supervision of its implementation shall be carried out by domestic and international inspectors. Regular inspection supervision shall be carried out by the health inspectors trained for chemicals who are introduced by the draft law on chemicals. The inspectors are employees within the structure of the Health Inspectorate of the Republic of Slovenia. Their powers are set out in the fourteenth article of the draft of this law.

The international inspectorate is an inspectorate employed by the Organisation for the Prohibition of Chemical Weapons which is responsible for the implementation of the Convention, and which is also suitably trained for this work. According to the Convention (Annex on Implementation and Verification, Part II, General Rules of Verification, Point 26) each State Party is obliged to provide to the inspection group of international inspectors all amenities such as communication facilities, interpretation services if necessary, transportation, working space, lodging, meals and medical care, if needed. Costs arising in relation to the work of the inspection group are reimbursed by the Organisation.

The fifteenth article states that liable parties must permit inspection and help the inspectors and their observer group in carrying out their work. This involves the type of cooperation when it is necessary to show the inspectorate sites where chemicals are stored, processing facilities, technical production or processing documentation, means of transport and everything else which the inspectorate has to check in accordance with its function. This type of obligation may, if it should prove necessary, be defined in more detail in an executive regulation by the minister responsible for health.

In the sixteenth article it is stated that inspection group shall be escorted in the Republic of Slovenia by an observer group determined by the minister responsible for health. The group is appointed by the minister responsible for health at the proposal of the ministers who with regard to their area of work are connected to the work or area of work of the implementation of the Convention. These are the minister responsible for internal affairs, the minister responsible for economic affairs, the minister responsible for defence, the minister responsible for environment and the minister responsible for agriculture. The leader of this group is a representative of the Office who also has specific powers for the implementation of his function.

The seventeenth article envisages a regulation from the minister responsible for internal affairs, by agreement with the minister responsible for foreign affairs, which shall in accordance with the Convention specify the border points of entry for international inspectors.

The chapter on penal provisions in articles eighteen and nineteen envisages penalties for violations.

The bodies which will perform the functions in the transitional period before the establishing of the bodies specified in this law are specified in articles twenty and twenty-one.

The executive regulations envisaged by the draft law should be issued within six months of the law entering into force. The deadline is sufficiently long for all envisaged executive regulations to be issued in this time and to ensure an actual basis for the implementation of the law and, with this, of the Convention.

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